

Federal Communications Commission

FCC MAIL SECTION
DA 99-374
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Federal Communications Commission
Washington, D.C. 20554

DISPATCHED BY

In the Matter of)	
)	CC Docket No. 99-35
Long-Term Telephone Number Portability)	
Tariff Filings of)	
)	
Ameritech Operating Companies)	Transmittal Nos. 1186, 1187
)	
GTE System Telephone Companies)	Transmittal No. 271
)	
GTE Telephone Operating Companies)	Transmittal No. 1190
)	
Pacific Bell)	Transmittal No. 2029
)	
Southwestern Bell Telephone Company)	Transmittal No. 2745
)	

ORDER DESIGNATING ISSUES FOR INVESTIGATION**Adopted: February 26, 1999****Released: February 26, 1999**

Direct Case Date: March 29, 1999
 Oppositions/Comment Date: April 13, 1999
 Rebuttal Date: April 23, 1999

By the Deputy Chief, Common Carrier Bureau:

I. INTRODUCTION

1. On January 29, 1999, the Competitive Pricing Division (Division) released the *Long-Term Number Portability Suspension Order*,¹ which, *inter alia*, suspended for one day the long-term telephone number portability tariff filings filed by incumbent local exchange carriers (LECs), imposed an accounting order, and initiated an investigation into the lawfulness of a number of issues raised by these tariff filings. We concluded that the tariffs filed by the incumbent LECs raised significant questions of lawfulness that warranted

¹ *Long-Term Telephone Number Portability Tariff Filings*, CC Docket No. 99-35, Memorandum Opinion and Order, DA 99-265 (Comp. Pric. Div., rel. Jan. 29, 1999) (*Long-Term Number Portability Suspension Order*).

investigation.² In this Order, we designate for investigation the issues discussed below.

II. RECOVERY OF OSS COSTS

A. Background

2. In the *Third Report and Order*, the Commission concluded that carrier-specific costs directly related to providing number portability are limited to costs carriers incur specifically in the provision of number portability services.³ In that light, the Commission recognized that modifications to Operations Support Systems (OSS) would provide a wide range of services and features that are unrelated to the provision of number portability and that are recoverable in the LECs' rates for other services.⁴ The order makes clear that only the incremental portion of such modifications or upgrades that is directly related to number portability functions is eligible for inclusion in the number portability cost recovery mechanism.⁵

3. In the *Cost Classification Order*, the Common Carrier Bureau (Bureau), acting pursuant to authority delegated to it by the Commission in the *Third Report and Order*, defined incremental OSS costs as the difference between the costs of the OSS upgrades without the number portability functionality and the total cost of the upgrades with the number portability functionality.⁶ Only the difference in costs is an eligible number portability cost.⁷ The *Cost Classification Order* directed the incumbent LECs to distinguish costs that fall under the narrow definition of number portability with respect to OSS from

² Those carriers were: Ameritech Operating Companies (Ameritech); GTE Telephone Operating Companies (GTOC) and GTE Systems Telephone Companies (GSTC) (collectively GTE); Southwestern Bell Telephone Company (SWBT) and Pacific Bell (Pacific) (collectively SBC). AT&T Corporation, Inc. filed petitions to reject or suspend the tariff filings of all of the incumbent LECs. See AT&T Petition to Reject or Suspend (filed Jan. 21, 1999) (AT&T Petition). Time Warner filed a petition to suspend SWBT and Pacific Bell's tariff filings. See Petition to Suspend for One Day and Set for Investigation (filed, Jan. 21, 1999) (Time Warner Petition).

³ *In the Matter of Long-Term Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11740 (para. 72) (1998) (*Third Report and Order*).

⁴ *Third Report and Order*, 13 FCC Rcd at 11740 (para. 73).

⁵ *Third Report and Order*, 13 FCC Rcd at 11740 (para. 73).

⁶ *In the Matter of Telephone Number Portability Cost Classification Proceeding*, Memorandum Opinion and Order, CC Docket No. 95116, DA 98-2534 at 11 (para. 23) (Com. Car. Bur. rel, Dec. 14, 1998) (*Cost Classification Order*).

⁷ *Cost Classification Order* at 12 (para. 27).

costs incurred to adapt other systems to implement number portability, such as repair and maintenance, billing, or order processing systems.⁸ Moreover, even where an upgrade to OSS meets the two-part test set out in the *Cost Classification Order*,⁹ the Bureau required incumbent LECs to make a special showing to establish the portion of any upgrade to OSS that should be attributed to number portability. Specifically, the *Cost Classification Order* directed incumbent LECs to show that all avoided costs and incremental revenues made possible by the upgrade will not cover the upgrade.¹⁰

B. Petitions

4. AT&T sought to suspend and investigate the tariff filings of Ameritech, GTOC, GSTC, and SWBT because they include costs incurred to modify internal OSS systems for functions such as preordering, ordering, billing, maintenance and repair, and 911 systems.¹¹ AT&T alleges that SWBT's operating expenses include approximately \$39 million in excess costs.¹²

C. Replies

5. Ameritech contends that its OSS costs meet the requirements of the *Cost Classification Order*.¹³ Ameritech states that it has distinguished the OSS costs that were for the narrowly defined portability functions, as required by the *Cost Classification Order*, and explains in detail why each cost was required to provide number portability, and how it was involved in the provision of number portability.¹⁴ GTE states that it has sought to recover only those expenses associated with OSS that enable customers to retain their telephone numbers when they switch providers without degradation of service, in compliance with the

⁸ *Cost Classification Order* at 7, 8 (paras. 12, 14).

⁹ Eligible number portability costs are costs that: (1) would not have been incurred "but for" the implementation of number portability; and (2) were incurred "for the provision of" number portability. See *Cost Classification Order* at 6 (para. 10).

¹⁰ *Cost Classification Order* at 13 (para. 29).

¹¹ AT&T Petition at 4-5.

¹² AT&T Petition at 12.

¹³ Ameritech Reply at 3.

¹⁴ Ameritech Reply at 3.

Commission's determination in the *First Report and Order*.¹⁵ GTE also states that any expenses for changes to OSS that could provide support for other products or services were not included.¹⁶

6. SBC contends that AT&T's claim that it has recovered \$39 million in excess costs for operating expenses associated with end office tandem investments and OSS investments is erroneous and the result of AT&T's inaccurate reading of the Charts 1 and 2A that SWBT provided with its tariff filing.¹⁷

D. Discussion

7. As a preliminary matter, we note that several carriers, as indicated below, submitted extensive confidential cost material with their filings. This confidential material was not discussed or explained either in the public Description and Justification accompanying the filings or in any confidential narrative accompanying the confidential cost materials. We require the carriers to supply a narrative explanation of how costs were developed in the confidential filings already filed, as well as in any other confidential filings to be made as part of their direct cases. These narratives will be subject to the same confidentiality arrangements as the confidential filings.¹⁸

8. In their confidential cost support, GSTC and GTOC appear to have miscalculated their costs by improperly inflating expenditures anticipated after 1999. They also appear to have used an improperly high rate of return by compounding the rate of return monthly, producing an annual percentage rate above the 11.25 percent authorized in the *Third Report and Order*. We direct GSTC and GTOC to correct these errors or to explain why their methods are correct.

9. In the *Number Portability Suspension Order*, we concluded that investigation of the incumbent LECs' OSS costs is warranted. The number portability tariff filings demonstrate that several incumbent LECs have included a substantial portion of OSS costs as number portability costs. For example, Ameritech seeks to recover costs incurred to equip its systems and network to perform ordering, provisioning, maintenance and repair, billing and

¹⁵ GTE Reply at 3.

¹⁶ GTE Reply at 4.

¹⁷ SBC Reply at 7.

¹⁸ See In the Matter of Long-Term Telephone Number Portability Tariff Filings, CC Docket No. 95-116, *Order*, DA 99-128 (para. 8) (Comp. Pric. Div., Jan. 8, 1999).

911 calls for ported numbers.¹⁹ GSTC and GTOC also claim a substantial amount of OSS costs in their tariff filings for modifications to existing ordering, maintenance and repair, and 911 systems.²⁰ Based on our review of the record and the tariff filings, we here designate for investigation the issue of whether the Ameritech, GSTC, GTOC, Pacific, and SWBT number portability tariffs include costs the LECs incurred to adapt other OSS systems to number portability, in addition to the incremental portion of OSS upgrades that is directly related to number portability. We also designate whether the OSS costs Ameritech, GSTC, GTOC, Pacific, and SWBT claim in their number portability tariffs are reasonable.

10. We direct Ameritech, GSTC, GTOC, Pacific, and SWBT to file as part of their direct cases an itemized list of OSS costs, arranged by functional area (for example, provisioning, maintenance, repair, billing, etc.). For each OSS modification or augmentation, the LECs must provide: (1) the total cost; (2) the cost assigned to number portability; (3) the cost allocations among number portability services; (4) an explanation of how each OSS modification relates to performing queries; (5) an explanation of how each OSS modification relates to porting numbers between carriers; (6) an explanation of how each OSS modification relates to any other number portability function; (7) the basis for cost allocations between number portability and non-number portability services; and (8) the basis for cost allocations among number portability services. For functions other than provisioning of number portability, LECs should explain with specificity why they believe a particular OSS modification or upgrade qualifies as eligible under the *Cost Classification Order*.

11. We further direct the LECs to explain for each OSS modification the manner in which it alters the nature of the task or function previously performed, and why this alteration is necessary "for the provision of portability." In addition, some OSS costs appear related to revising OSS systems to perform 10-digit translations. LECs should identify these costs and demonstrate that they will not benefit CLASS services, area code overlays, or other services. In the alternative, LECs should show how costs were allocated among services that benefit from the changes.

¹⁹ Ameritech Transmittal No. 1186, Description and Justification (D&J), Section B, "Cost and Rate Structure Requirements" at 6.

²⁰ GSTC Transmittal No. 271, D&J, Section IV.C, "OSS Costs"; GTOC Transmittal No. 1190, D&J, IV.C, "OSS Costs."

III. CALCULATION OF SIGNALLING AND SWITCHING COSTS

A. Background

12. In the *Cost Classification Order*, the Bureau found that allowing embedded investments to be eligible number portability costs would amount to recovery of costs the LECs already recover through standard recovery mechanisms.²¹ For this reason, we found it reasonable to bar recovery of costs incurred by LECs prior to long-term number portability implementation.²²

B. Petitions

13. AT&T alleges that Ameritech, Pacific, and SWBT have included embedded costs in calculating the incremental costs of number portability for their signalling and switching capacity, contrary to the *Cost Classification Order*.²³ Specifically, AT&T contends that Ameritech multiplied an estimate of its new incremental traffic by an average cost to support the additional traffic on its network.²⁴ AT&T also contends that Pacific and SWBT calculated an average cost per query figure that is employed in their end-user and query rates.²⁵

C. Replies

14. Ameritech responds that the cost model used to calculate number portability signalling costs only looked at the average incremental, forward-looking costs of supporting new number portability traffic and does not reflect embedded costs.²⁶ Ameritech states that it has identified the cost to be allocated to number portability by determining the additional equipment, facilities or capacity required to support the new number portability generated traffic.²⁷

²¹ *Cost Classification Order* at 9 (para. 18).

²² *Cost Classification Order* at 9 (para. 18).

²³ AT&T Petition at 5-6.

²⁴ AT&T Petition at 5.

²⁵ AT&T Petition at 6.

²⁶ Ameritech Reply at 5.

²⁷ Ameritech Reply at 5, citing D&J at 7.

15. SBC states that the charge used for SWBT's queries was developed through the use of the Switching Cost Information System (SCIS) and the Common Channel Signalling Cost Information System (CCSCIS) cost models, which represent forward-looking incremental costs associated with demand placed on the SS7 network by the next number portability query.²⁸ SBC argues that the charge only recovers the direct incremental costs associated with implementing number portability and querying the number portability database.²⁹ SBC contradicts AT&T's assertion that Pacific calculated the costs of number portability and added the purported costs of its internal queries. SBC states that both SWBT and Pacific incur costs for their own queries in the same manner as costs are incurred for queries performed for other carriers, and that they will recover the costs of their own queries through the end-user charge.³⁰

D. Discussion

16. Our review of Ameritech's tariff filing shows that, while they used an "LNP Cost Tracking System" to track actual and planned expenditures for most components of their long-term number portability costs, they used the CCSCIS cost model to estimate SS7 Signalling costs.³¹ Ameritech's SS7 signalling costs appear to be a significant component of Ameritech's total long-term number portability costs, as well as significantly larger than other carriers' SS7-related costs. Pacific and SWBT's tariff filings show that they used the SCIS and CCSCIS models, rather than actual and planned expenditures, to identify long-term number portability costs related to both signalling and switching.³²

17. We find that Ameritech, Pacific, and SWBT's use of cost models, rather than actual expenditures, raises substantial issues of lawfulness that warrant investigation. It is not clear that the use of these cost models does not result in the inclusion of some embedded costs for which recovery is already provided through other recovery mechanisms. Moreover, it is not clear that such models accurately estimate the actual additional costs incurred for the provision of local number portability. The use of these models may be inconsistent with the *Cost Classification Order* requirement that only incremental costs may be recovered through

²⁸ SBC Reply at 2-3.

²⁹ SBC Reply at 2.

³⁰ SBC Reply at 3.

³¹ Ameritech Transmittal No. 1186, D&J at 13, filed Jan. 15, 1999.

³² Pacific Transmittal No. 2029, D&J, Appendix E, "Service Cost Development"; SWBT Transmittal No. 2745, D&J, Appendix E, "Service Cost Development."

these federally authorized charges. We find, therefore, that the use of the cost models raises issues that warrant an investigation.

18. Based upon a review of the tariff filings, we here designate for investigation whether Ameritech's use of CCSCIS to estimate its signalling costs of number portability results in the inclusion of some embedded costs and, therefore, produces an inaccurate estimate of Ameritech's actual number portability costs. We also designate for investigation whether SWBT and Pacific's use of the SCIS and CCSCIS cost models to estimate switching and signalling costs results in the inclusion of some embedded costs and, therefore, produces an inaccurate estimate of their actual number portability costs.

19. We direct Ameritech, Pacific, and SWBT to file as part of their direct cases actual expenditures, including expenditures to date and planned actual expenditures within the recovery period, for the number portability costs that they estimated using CCSCIS or SCIS. The companies must explain the basis of each calculation of actual expenditures.

20. Where Ameritech, Pacific, and SWBT intend to continue to rely on the information produced by the cost models in support of their tariffs, we further direct the LECs to explain how the use of cost models would produce more accurate estimates of the incremental costs generated by number portability than would be produced by an analysis of actual and planned expenditures. These LECs also must demonstrate that the use of the models does not produce double recovery of embedded costs already being recovered through other cost recovery mechanisms. This demonstration must also include, at a minimum, a comparison of the model's calculation of average costs of number portability-type queries and the model's incremental costs of these queries. The LECs also must demonstrate their total network switching and signalling costs with and without long-term number portability, or explain why their models cannot do so.

21. With regard to both costs derived from cost models and costs produced from an analysis of actual expenditures, we also direct the LECs to identify costs for all land, buildings, administration, and maintenance expenses that are claimed. The LECs should identify costs that were derived either from model output or an allocation factor applied to actual costs on the basis that new investment has an impact on overall requirements. The cost documentation provided with the LECs' tariffs shows that some end-office and tandem switch costs appear related to reprogramming switches to perform 10-digit translations. We require the LECs to identify these costs and demonstrate that other services will not benefit from such reprogramming. In the alternative, LECs should show how costs were allocated, using either a cost model or actual expenditures, to the services that benefit from reprogramming.

IV. CALCULATION OF OVERHEADS

A. Background

22. In the *Third Report and Order*, the Commission held that "carriers may identify as carrier-specific costs directly related to providing long-term number portability only those incremental overheads that they can demonstrate they incurred specifically in the provision of long-term number portability."³³ The Bureau interpreted the Commission's requirement in the *Cost Classification Order* to require that only new overhead costs are eligible for recovery through the federal charge mechanisms and that no allocation of embedded overheads is permitted.³⁴ The Bureau required, therefore, that the incumbent LECs must demonstrate that any incremental overheads claimed are actually new costs incremental to and resulting from the provision of number portability.³⁵ With regard to the use of overhead allocation factors in determining number portability costs, the Bureau also stated that the use of unbundled network element overhead factors may serve as a useful check on the reasonableness of the incumbent LECs' incremental overhead allocations.³⁶

B. Petitions

23. AT&T argues that Pacific's use of a 21 percent overhead factor, the same factor used in state proceedings for pricing unbundled network elements (UNEs), is markedly higher than the factors used by the other incumbent LECs in their number portability tariff filings.³⁷ AT&T acknowledges that the Bureau held that the use of overhead allocation factors set by state commissions for UNEs would serve as a useful guide for reviewing the reasonableness of incremental overhead allocations.³⁸ AT&T argues that it would be unreasonable to permit one incumbent LEC to establish a significantly higher overhead rate for its number portability tariff than the rates employed by other incumbent LECs absent a

³³ *Third Report and Order*, 13 FCC Rcd at 11740 (para. 74).

³⁴ *Cost Classification Order* at 14-15 (para. 33).

³⁵ *Cost Classification Order* at 14-15 (para. 33).

³⁶ *Cost Classification Order* at 16 (para. 37).

³⁷ AT&T Petition at 12.

³⁸ AT&T Petition at 12.

compelling showing that the incumbent LECs' incremental overhead costs for number portability were in fact higher.³⁹

C. Replies

24. SBC argues that the incremental overhead factor used by Pacific is appropriate and that AT&T, in prior filings, has endorsed the use of the overhead allocation factors used in the states to price UNEs.⁴⁰ SBC further argues that since the *Cost Classification Order* fails to set forth a methodology to be used in determining incremental overheads, Pacific used the factor deemed reasonable by the Bureau's order.⁴¹ SBC states that the factor Pacific used is the overhead allocation factor for UNE pricing that is pending before the California Public Utility Commission.⁴²

D. Discussion

25. Our review of the tariff filings also shows that Pacific used a 21 percent allocation factor, the same factor used in state proceedings for UNEs, to allocate overhead costs to number portability services.⁴³ SWBT's Description and Justification states that it accepts the loading factors used in the state proceedings for UNEs as a reasonable allocator.⁴⁴ SWBT also calculated incremental overhead attributable to number portability using the weighted average factor used to develop loading factors in the state UNE proceedings.⁴⁵

26. Although Pacific and SWBT have stated that the use of the same allocation factors used in the state proceedings to price unbundled network elements is reasonable, we conclude that the use of these UNE factors may include general overhead costs that do not comport with the requirements of the *Cost Classification Order*. The *Cost Classification Order* required the incumbent LECs to base their incremental allocation factors for number portability on information derived from a special study rather than solely on the allocation

³⁹ AT&T Petition at 13.

⁴⁰ SBC Reply at 8.

⁴¹ SBC Reply at 8.

⁴² SBC Reply at 8.

⁴³ Pacific Transmittal No. 2029, D&J, Section 2.6 "Rate Development" at 13-14.

⁴⁴ SWBT Tariff Filing, Transmittal No. 2745, D&J, Section 2.6 "Rate Development" at 14.

⁴⁵ SWBT Tariff Filing, Transmittal No. 2745, D&J, Section 2.6 "Rate Development" at 14.

factors used in state interconnection proceedings. The Bureau concluded that "the use of incremental allocation factors determined through a special study [of retail common costs] is a reasonable method of determining incremental overheads associated with number portability."⁴⁶ The Bureau referred to the overhead allocation factors used by state commissions to price UNEs as "a useful check on the reasonableness" of incremental overhead allocations.⁴⁷

27. We note that SWBT stated in its tariff filing that it "does not believe it to be practical to conduct a special study similar to that proposed by Ameritech and cited in the Cost Order."⁴⁸ We find, however, that the Pacific overhead allocation factor of 21 percent is substantially higher than the overhead allocation factors used by the other incumbent LECs. We, therefore, find that Pacific's use of a 21 percent allocation factor and SWBT's use of a weighted average factor, in the absence of a special study or other information to confirm that these factors represent the incremental overheads attributable to number portability, raises issues of lawfulness that warrant an investigation. We designate for investigation whether Pacific's use of the overheads proposed to state commissions for unbundled network elements in calculating incremental overhead costs attributable to number portability is reasonable. We also designate whether SWBT's use of the weighted average factor in calculating incremental overhead attributable to number portability is reasonable.

28. To determine whether the allocation factors used by Pacific and SWBT include only the incremental overheads attributable to number portability, we direct Pacific and SWBT to provide their actual incremental overheads using an approach similar to the approach employed by Ameritech as described in the *Cost Classification Order*.⁴⁹

V. ALLOCATION OF NUMBER PORTABILITY COSTS AMONG NUMBER PORTABILITY SERVICES

A. Background

29. The Bureau provided specific, detailed guidance to the LECs in the *Cost Classification Order* as to the proper method of allocating eligible number portability costs between the end-user and query service charges. First, the Bureau determined the proper

⁴⁶ *Cost Classification Order* at 15 (para. 34).

⁴⁷ *Cost Classification Order* at 16 (para. 37).

⁴⁸ SWBT Tariff Filing, Transmittal No. 2745, D&J, Section 2.6 "Rate Development" at 14.

⁴⁹ *Cost Classification Order* at 15 (para. 34).

allocation of costs incurred for specific number portability services. The Bureau stated that incumbent LECs should allocate any portion of eligible number portability costs that is incurred specifically to provide N-1 query services to the N-1 query services.⁵⁰ Where the incumbent LECs intend to establish several types of N-1 query services, the Bureau directed that the LECs allocate the eligible number portability costs incurred specifically to provide each type of query service to that particular service.⁵¹ Similarly, the Bureau directed the incumbent LECs to allocate costs incurred only to provide number portability functions to end-users to the end-user charge.⁵²

30. The Bureau also determined the proper allocation of any remaining eligible number portability costs.⁵³ Generally, the Bureau directed the incumbent LECs to allocate these remaining costs on the basis of the capacity requirements for each type of service.⁵⁴ For incumbent LECs that elect to provide several types of N-1 query services, the Bureau directed that allocation of costs should be made to each service on the basis of the capacity requirements for the service.⁵⁵

B. Discussion

31. The incumbent LECs' number portability tariff filings show that each LEC has allocated eligible number portability costs in a different manner. Ameritech agrees that relative capacity is more cost-causative than relative usage but contends that it has no evidence that traffic characteristics of number portability queries will vary in a way that will place different demands on capacity per average unit of traffic.⁵⁶ For this reason, Ameritech allocated eligible number portability costs between the end-user charge and the query service charges using projected usage as a surrogate for capacity.⁵⁷

⁵⁰ *Cost Classification Order* at 17 (para. 40).

⁵¹ *Cost Classification Order* at 17 (para. 40).

⁵² *Cost Classification Order* at 17 (para. 40).

⁵³ Remaining eligible costs are those costs that are incurred by an incumbent LEC in general to establish and provide number portability service. These costs are not incurred specifically to provide a particular query service but are incurred to provide number portability as a whole.

⁵⁴ *Cost Classification Order* at 17 (para. 41).

⁵⁵ *Cost Classification Order* at 17 (para. 41).

⁵⁶ Ameritech Transmittal No. 1186, D&J at 8.

⁵⁷ Ameritech Transmittal No. 1186, D&J at 8.

32. GSTC and GTOC allocated costs to the number portability services using the following method. First, the total busy query capacity of all number portability service control points was calculated. Next, the busy hour queries for each query service were divided by the busy hour capacity to determine the percent of busy hour capacity. Finally, the total number portability costs were multiplied by the percent of busy hour capacity to determine the amount of number portability costs to be applied to each service.⁵⁸

33. Pacific and SWBT allocated SS7 connection, SS7 links, and standard signal transfer point routing costs to the query services based on busy hour demand, as well as on the cost of equipment dedicated to queries.⁵⁹ Pacific and SWBT allocated implementation costs and the unrecovered costs of 1998 queries by their customers to the end-user charge.⁶⁰

34. To determine whether each incumbent LEC has allocated number portability costs consistent with the determinations made by the Bureau in the *Cost Classification Order*, we designate for investigation the issue of whether Ameritech, GSTC, GTOC, Pacific and SWBT's methods of allocating number portability costs between the end-user and query service charges are reasonable.

35. We direct Ameritech, GSTC, GTOC, Pacific, and SWBT to provide more complete explanations of their bases for allocating number portability costs among services and why their methods are reasonable. In particular, Pacific and SWBT should address the question of whether it is reasonable to assign all "implementation costs" to the end-user surcharge. In addition, we direct the LECs to submit as part of their direct cases the worksheet described in the *Cost Classification Order*, and specifically to include the allocation of each cost among the number portability services as required by the order.⁶¹ The LECs must include sufficient data and calculations to show the assumptions used to allocate the costs of shared facilities, such as costs of the shared regional databases and links.

⁵⁸ GSTC Transmittal No. 271, D&J, Section V. "Cost Study Explanation" at 34; GTOC Transmittal No. 1190, D&J, Section V. "Cost Study Explanation" at 34.

⁵⁹ Pacific Transmittal No. 2029, D&J, Section 2.5 "Cost Development" at 10-11; SWBT Transmittal No. 2745, D&J, Section 2.5 "Cost Development" at 10-11.

⁶⁰ Pacific Transmittal No. 2029, D&J, Section 2.5 "Cost Development" at 12; SWBT Transmittal No. 2745, D&J, Section 2.5 "Cost Development" at 12.

⁶¹ *Cost Classification Order* at 20 (para. 49).

VI. QUERY SERVICES COSTS AND CHARGES

A. Background

36. The Commission determined that incumbent LECs may query calls for N-1 carriers, either by arrangement or by default, and may recover from the N-1 carrier their carrier-specific costs directly related to providing prearranged and default query services in a federally tariffed query-service charge.⁶² The Commission also required carriers to indicate in the cost support section of their tariffs that portion of their carrier-specific costs that is attributable to the number portability services they provide end-users, and that portion attributable to the number portability query services they provide on behalf of other carriers.⁶³ As discussed in detail above, the *Cost Classification Order* required incumbent LECs to allocate any portion of eligible number portability costs that is incurred specifically to provide N-1 query services directly to those services.⁶⁴ The Bureau also determined that remaining eligible number portability costs should be allocated to each service on the basis of the capacity requirements for each service.⁶⁵

37. In addition, the Bureau recognized in the *Cost Classification Order* that some incumbent LECs query all calls, even in NXXs where no telephone number has been ported, and charge end-users and carriers for whom they perform query services accordingly.⁶⁶ The Bureau directed the incumbent LECs to state in their supporting documentation whether their demand assumptions included performing queries for all calls in NXXs where no number had been ported and to explain why it is necessary to query all calls in this situation.⁶⁷

B. Petitions

38. AT&T recommends that the Bureau investigate Pacific and SWBT's inclusion of several "nonrecurring" charges for default query services. Specifically, AT&T states that both Pacific and SWBT have failed to adequately explain why they must impose certain

⁶² *Third Report and Order*, 13 FCC Rcd at 11778-79 (para. 147).

⁶³ *Third Report and Order*, 13 FCC Rcd at 11778-79 (para. 147).

⁶⁴ *Cost Classification Order* at 17 (para. 40).

⁶⁵ *Cost Classification Order* at 17 (para. 41).

⁶⁶ *Cost Classification Order* at 19 (para. 48).

⁶⁷ *Cost Classification Order* at 19 (para. 48).

charges each month when processing a customer's bill for default query services.⁶⁸ AT&T notes that the other incumbent LECs have not proposed similar "nonrecurring" charges.⁶⁹

39. Time Warner petitioned the Commission to suspend Pacific and SWBT's number portability tariffs, alleging that the carriers have not clarified whether they intend to impose default query charges on all calls to NXXs in which no telephone number has been ported.⁷⁰ Time Warner urges the Commission to investigate and declare unlawful any tariff that imposes default query charges on calls to NXXs with no ported numbers.⁷¹ AT&T also argues that Pacific and SWBT should not be permitted to charge for default queries performed before a number has been ported in an NXX.⁷² According to AT&T, SWBT and Pacific's tariff filings also fail to comply with the *Cost Classification Order's* requirement that incumbent LECs include an explanation as to why it is necessary to query all calls in this situation.⁷³

C. Replies

40. SBC contends that the "nonrecurring" charges proposed by Pacific and SWBT will occur only one time, or one time each month if the carrier chooses never to prearrange for query service.⁷⁴ SBC states that if carriers prearrange for query service this charge will not be imposed. SBC argues that where an N-1 carrier chooses not to prearrange its queries and, as a result, causes default queries each month, the incumbent LEC has little choice in how to recover the additional costs that are caused by the default queries.⁷⁵ SBC concedes that it omitted the explanation of the charge from the tariff filing, but states that it is willing to revise the tariff language to clarify that the charge will only be billed to N-1 carriers who have not prearranged with either SWBT or Pacific to perform queries on the carrier's behalf.⁷⁶

⁶⁸ AT&T Petition at 9.

⁶⁹ AT&T Petition at 10.

⁷⁰ Time Warner Petition at 1.

⁷¹ Time Warner Petition at 1-2.

⁷² AT&T Petition at 8.

⁷³ AT&T Petition at 8.

⁷⁴ SBC Reply at 6.

⁷⁵ SBC Reply at 6.

⁷⁶ SBC Reply at 6-7 (citing *Third Report and Order*, 13 FCC Rcd 11711, 11728-29 at paras. 15 and 46).

41. SBC further contends that the query service charges included in Pacific and SWBT's tariffs are consistent with the *Cost Classification Order*.⁷⁷ SBC argues that the issue of whether an incumbent LEC may query all calls to NXXs where a number has not been ported was resolved in the *Third Report and Order*.⁷⁸ SBC states that the *Third Report and Order* requires carriers to query all interswitch calls to an NXX once number portability is available for that NXX, to determine whether or not the terminating customer has ported a number.⁷⁹ SBC argues that the incumbent LECs must begin to translate their networks and must query the number portability database well before the first order to port a number is received, if the work is to be completed within the five-day period prescribed by the industry.⁸⁰

D. Discussion

42. We note that Pacific's tariff states that several nonrecurring charges need to be applied to recover the costs of establishing a bill for default and prearranged queries and for establishing the customer connection to Signal Transfer Points (STPs) for database queries.⁸¹ SWBT's tariff filing states that default billing charges were developed to recover costs associated with establishing a billing account to bill carriers for default queries handled by the SWBT database.⁸²

43. Based on a preliminary investigation of the tariff filings, we find that Pacific and SWBT have not provided adequate explanations or documentation to support a nonrecurring charge for their query services. Moreover, Pacific and SWBT's supporting documentation does not identify additional costs created by billing for default queries on a monthly basis. The monthly "nonrecurring" charge for default queries appears to be a recurring charge that Pacific and SWBT will impose for the purpose of encouraging companies to request prearranged queries, and not for the purpose of covering costs that result from providing default query services. We find that Pacific and SWBT's inclusion of a monthly "nonrecurring" charge for their query services raises substantial issues of lawfulness

⁷⁷ SBC Reply at 4.

⁷⁸ SBC Reply at 5.

⁷⁹ SBC Reply at 5.

⁸⁰ SBC Reply at 5.

⁸¹ Pacific Transmittal No. 2029, D&J, Section 2.1, "Cost Development" at 5.

⁸² SWBT Transmittal No. 2845, D&J, Appendix E, "Service Cost Development."

that warrant an investigation. We designate for investigation whether SWBT and Pacific's monthly "nonrecurring" query service charges are reasonable.

44. We also note that Pacific proposes monthly "nonrecurring" charges for database access that appear to be imposed when actual usage cannot be measured. No other carrier proposes a similar charge, and Pacific does not provide a sufficient explanation for the existence or level of this charge. We also designate for investigation whether this monthly "nonrecurring" charge for database access is reasonable. We direct Pacific to file in its direct case a full explanation of the circumstances under which this charge might arise and a justification of both its necessity and level. This explanation should include the reason usage measurement is not feasible and an explanation of why the proposed charge is an appropriate and reasonable proxy for measured usage. We direct Pacific to file a full explanation and justification for the other proposed "nonrecurring" charge, identified as a cost component of prearranged queries, as well as proposed tariff language that will clarify precisely when and under what circumstances this charge will apply.

45. Pacific and SWBT's tariff filings state that they have provisioned their networks so that on the date an NXX is shown in the Local Exchange Routing Guide (LERG) to be number portable, each company will begin charging N-1 carriers a query charge for all unqueried calls to that NXX.⁸³ Both Pacific and SWBT will begin billing the end-user charge to all end-users that use a particular switch when the first NXX in a switch is shown in the LERG as number portable.⁸⁴

46. We do not read the *Third Report and Order* as mandating, as SBC implies, that carriers must query all calls where number portability is available, even in NXXs where no numbers have been ported. In the *Cost Classification Order*, we directed incumbent LECs to explain why it is necessary to query each call to an NXX where a number has not been ported.⁸⁵ Our review of the tariff filings indicates that neither Pacific nor SWBT has provided an adequate explanation as to why it must query each call to a particular NXX before a number has been ported from or to that particular NXX. We therefore designate for investigation whether Pacific and SWBT's demand calculations, which include queries for calls to NXXs where a number has not been ported, are reasonable. We direct Pacific and SWBT to provide a detailed explanation as to why their systems are required to operate in

⁸³ Pacific Transmittal No. 2029, D&J, Section 2.4, "Demand Development" at 9; SWBT Transmittal No. 2745, D&J, Section 2.4, "Demand Development" at 9.

⁸⁴ Pacific Transmittal No. 2029, D&J, Section 2.4, "Demand Development" at 9; SWBT Transmittal No. 2745, D&J, Section 2.4, "Demand Development" at 9.

⁸⁵ *Cost Classification Order* at 19 (para. 48).

this fashion and state why no other alternatives exist. Pacific and SWBT also should explain the differences between their systems and those of other LECs, such as Ameritech, that have not found it necessary to query all calls. The explanations must include a statement as to whether their proposed demand calculations include: (1) queries made on intraswitch calls; (2) queries on interswitch calls in NXXs where a number has been ported; and (3) queries made on interswitch calls in NXXs where a number has not been ported.

VII. GENERIC UPGRADES

A. Background

47. In the *Third Report and Order*, the Commission recognized that some upgrades to the carriers' networks would enhance their services generally, and at least some portion of such upgrade costs is not directly related to providing number portability.⁸⁶ The Bureau acknowledged the impact of general upgrades on the entire LEC network and required that the incumbent LECs distinguish between eligible number portability costs that are recoverable through the federal number portability charges from general upgrade costs in their number portability tariff filings.⁸⁷ The Bureau concluded that general network upgrade costs should not be recovered through the federal number portability charges.⁸⁸

B. Discussion

48. The Bureau's initial review of Pacific and SWBT's tariff filings reveals that the LECs have included costs for software generics, which appear to be general network upgrades, without adequate justification.⁸⁹ Pacific and SWBT's tariff filings raise questions of reasonableness and lawfulness that warrant an investigation. We designate whether Pacific and SWBT's use of generic software upgrade costs is reasonable and whether these costs have been calculated correctly. We direct Pacific and SWBT to explain the methodology used to calculate generic upgrade costs and the allocation of costs between the number portability and non-number portability services.

⁸⁶ *Third Report and Order*, 13 FCC Rcd at 11740, para. 73.

⁸⁷ *Cost Classification Order* at 5-6 (para. 9).

⁸⁸ *Cost Classification Order* at 6 (para. 11).

⁸⁹ Pacific Transmittal No. 2029, Confidential Cost Support, Chart 1; SWBT Transmittal No. 2745, Confidential Cost Support, Chart 1.

VIII. JURISDICTIONAL SEPARATIONS

A. Background

49. In the *Third Report and Order*, the Commission found that section 251(e) authorizes the Commission to provide the distribution and recovery mechanism for all the costs of providing long-term number portability.⁹⁰ The Commission concluded that an exclusively federal recovery mechanism for long-term number portability will minimize the administrative and enforcement difficulties that might arise were jurisdiction over long-term number portability divided.⁹¹ The Commission noted that under the exclusively federal number portability cost recovery mechanism, incumbent LECs' number portability costs will not be subject to jurisdictional separations.⁹²

B. Discussion

50. Although the Commission established an exclusively federal recovery mechanism for long-term number portability in the *Third Report and Order*, some LECs may have included, or may be including, some or all of these costs in their jurisdictional separations procedures. To the extent long-term number portability costs have been assigned to the intrastate jurisdiction, those costs also may have been recovered through intrastate rates. Recovery in the federal jurisdiction may, thus, constitute double recovery. Similarly, to the extent long-term number portability costs are assigned to the intrastate jurisdiction prospectively, and LECs seek to recover those costs through intrastate rates, recovery in the federal jurisdiction would constitute double recovery.

51. We designate as an additional issue the question of what separations treatment and what intrastate ratemaking treatment may have been or may be accorded long-term number portability costs. We direct the LECs to file an explanation of how prior year costs related to long-term number portability implementation were treated with respect to jurisdictional separations. The LECs should demonstrate that the long-term number portability costs booked in past periods and included in the development of federal number portability charges have not been recovered already in the state jurisdiction. Alternatively, the LECs should explain how state ratepayers will be made whole if the Commission allows federal recovery of costs previously assigned to the intrastate jurisdiction and included in the state ratemaking process. We also direct the LECs to file an explanation of how costs related

⁹⁰ *Third Report and Order*, 13 FCC Rcd at 11720, para. 29.

⁹¹ *Third Report and Order*, 13 FCC Rcd at 11720, para. 29.

⁹² *Third Report and Order*, 13 FCC Rcd at 11720, para. 29.

to long-term number portability implementation will be treated prospectively with respect to jurisdictional separations. The LECs should demonstrate that long-term number portability costs included in the development of federal number portability charges will not be recovered prospectively in the state jurisdiction.

IX. PROCEDURAL MATTERS

A. Filing Schedules

52. This investigation will be conducted as a notice and comment proceeding. We have designated CC Docket No. 99-35. The following companies are the parties designated to this investigation: Ameritech, GSTC, GTOC, Pacific, and SWBT.

53. These parties shall file their direct cases no later than March 29, 1999. The direct cases must present the parties' positions with respect to the issues described in this Order. Pleadings responding to the direct cases may be filed no later than April 13, 1999, and must be captioned "Oppositions to Direct Case" or "Comments on Direct Case." The companies may each file a "Rebuttal" to oppositions or comments no later than April 23, 1999.

54. An original and six copies of all pleadings shall be filed with the Secretary of the Commission. In addition, parties shall file two copies of any such pleadings with the Competitive Pricing Division, Common Carrier Bureau, 445 12th Street, S.W., 5th Floor, Washington, D.C. 20554. Parties shall also deliver one copy of such pleadings to the Commission's commercial copying firm, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20036. Members of the general public who wish to express their views in an informal manner regarding the issues in this investigation may do so by submitting one copy of their comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room 222, Washington, D.C. 20554. Such comments should specify the docket number of this investigation. Parties are also encouraged to submit their pleadings electronically through the Electronic Tariff Filing System.

55. All relevant and timely pleadings will be considered by the Commission. In reaching a decision, the Commission may take into account information and ideas not contained in pleadings, provided that such information or a writing containing the nature and source of such information is placed in the public file, and provided that the fact of reliance on such information is noted in the order.

B. Ex Parte Requirements

56. This tariff investigation is a "permit-but-disclose proceeding" and subject to the "permit-but-disclose" requirements under section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.⁹³ Other rules pertaining to oral and written presentations are set forth in section 1.1206 (b), as well.

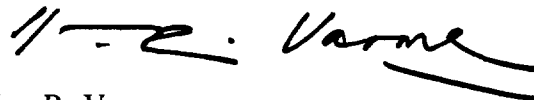
X. ORDERING CLAUSES

57. **ACCORDINGLY, IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the issues set forth in this Order **ARE DESIGNATED FOR INVESTIGATION**.

58. **IT IS FURTHER ORDERED** that Ameritech Operating Companies, GTE Telephone Operating Companies, GTE Systems Telephone Companies, Pacific Bell, and Southwestern Bell Telephone Company **SHALL BE** parties to this proceeding.

59. **IT IS FURTHER ORDERED** that each local exchange carrier that is a party to this proceeding **SHALL INCLUDE**, in its direct case, a response to each request for information that it is required to answer in this Order.

FEDERAL COMMUNICATIONS COMMISSION



Yog R. Varma
Deputy Chief, Common Carrier Bureau

⁹³ See 47 C.F.R. §1.1206 (b)(2), as revised.